November 1, 1999

NPRM Response Delivered at Public Hearing
Public Health Service
42 CFR part 8
Docket No. 98N-0617

An independent, not-for-profit organization, the Joint Commission on Accreditation of Healthcare Organizations is the nation's pre-eminent standards-setting and accrediting body in health care, evaluating and accrediting more than 19,500 healthcare organizations in the United States. For more than four decades, the Joint Commission has developed state-of-the-art, professionally-based standards and has evaluated the compliance of health care organizations against these benchmarks. Our mission is to "improve the quality of care provided to the public through the provision of health care accreditation and related services that support performance improvement in health care organizations". The Joint Commission develops, maintains, and updates sets of standards for given areas of the health care field in consultation with approval by health care services system experts, providers, measurement experts, purchasers, and consumers in the area under review.

The Joint Commission has long recognized the important role of behavioral health care organizations in the health care delivery system. The Commission has been active in behavioral health care accreditation since 1969, currently, accrediting more than 1,200 behavioral health organizations. Surveys are conducted by behavioral health care professionals, including psychologists, social workers, psychiatrists, nurses, and mental health administrators, who are trained and experienced in the accreditation survey process. Most are currently practicing in the behavioral health care field.

Organizations providing mental health, chemical dependency, and mental retardation/ developmental disabilities voluntarily seek Joint Commission accreditation because it:

- demonstrates the organization's commitment to providing quality care and services;
- fulfills licensure requirements in many states;
- enhances community confidence;
- increases an organization's competitive edge in the marketplace;
- may expedite third-party reimbursement;
- permits access to financial markets;
- enhances staff recruitment;
- supports staff education;
- improves access to liability insurance coverage; and
- stimulates improvement in clinical care.

The Joint Commission has been granted "deeming" authority by Health Care Financing Administration (HCFA)for Medicaid. Many state governments also recognize accreditation by

the Joint Commission as meeting requirements of state authorities, so that state inspection is not required or is limited in scope.

The Joint Commission first offered accreditation to Opiate Treatment Programs (OTP) in 1977, which coincided with the introduction of the Commission's Standards for Drug Abuse Treatment and Rehabilitation Programs. In the last ten years, the Joint Commission has accredited over 55 hospitals with hospital-based OTPs and approximately 36 freestanding OTPs.

In 1998, the Joint Commission embraced the chance to become part of the Substance Abuse and Mental Health Services Administration's (SAMHSA)Impact Study on the Accreditation of Opiate Treatment Programs because the focus of this initiative is the qualitative improvement of this treatment modality. It is SAMHSA's intent to develop a system that relies on best medical practices developed during the past 30 years when narcotic treatment was practiced in a heavily regulated system. New standards for opiate treatment programs have been developed based on the Center for Substance Abuse Treatment's *Guidelines for the Accreditation of Opioid Treatment Programs* and have been incorporated into the *Comprehensive Accreditation Manual for Behavioral Healthcare*. These standards will be used during the next year to survey 67 OTPs in seven states and will be used for all OTPs after the study has been completed. Surveys of OTPs are conducted by a surveyor with customized training in the new standards and experience in drug abuse treatment.

The Joint Commission supports the intent of 42 CFR Part 8, as proposed by the Secretary of Health and Human Services. The Secretary is seeking comment on specific topics in this proposed rule and we will address our comments to two of these topics.

In Subpart A, Section 8.3, the Secretary is seeking comment on the proposal to allow states capable of accrediting 50 OTPs to do so. We do not feel that states or other governmental entities should be encouraged to function as accrediting bodies, regardless of the number of organizations they could accredit. States already license OTPs, within their borders, in a regulatory system that has, largely, been based on the Federal regulatory system and requires approval by a state legislative body. Regulations, regardless of their source, establish minimal standards and minimal standards, once met, do not propel a system toward quality treatment. These public licensing and funding agencies have relationships with the private sector treatment programs which are often adversarial, by design. During a licensing visit, organizations spend time "defending" compliance issues cited in inspectors' reports and are not given technical assistance designed to assist in correcting these "deficiencies". During budget hearings, funded organizations "defend" requests for additional funding from a system with limited ability to expand. Accreditation standards, developed within a state system, would still require regulatory or legislative approval, limiting the states' ability to revise standards in response to changes in the field. Accreditation, by states, would continue to contribute to the adversarial relationship that currently exists.

Accreditation organizations exist in the private sector and, by maintaining a private sector relationship between the accrediting body and the organization seeking accreditation, are able to support a philosophy which encourages organizations to continually improve the services

provided as well as insure that organizations meet federal and state regulatory requirements. Performance improvement supports the periodic revision of standards, without legislative approval or mandate, in response to changes in the "state of the field". Surveyors are trained to not only identify weaknesses within an organization but to also give technical assistance to correct those weaknesses within the context of continual program improvement. This rigorous survey process by health care professionals working in the field maximizes the probability that organizations will be compliant with applicable federal and state regulations and seek to increase the quality of services provided order to retain accreditation. Additionally, accrediting organizations can be more objective than State Authorities who have competing priorities, such as funding and political pressures.

If states are allowed to accredit, there must be a mechanism to insure that organizations within those accrediting states have the freedom to choose to be accredited by private sector agencies nationally recognized by other federal agencies and third party payers. In addition, individual states should have the authority to "deem" accreditation for their own state licensing processes.

Subpart B, Section 8.11, outlines the mechanism for certifying an Opiate Treatment Program. This procedure, as outlined, allows for "transitional certification" and "provisional certification". It is hoped that these provisions will facilitate the transition of this treatment system from one based on regulations to an accreditation model.

All new organizations seeking accreditation from the Joint Commission may elect an option under the Early Survey Policy that allows health care organizations to obtain accreditation services prior to full compliance with all Joint Commission standards. Using Option I, if the organization is licensed; has an identified building from which services will be conducted; has identified "key personnel", including a chief executive officer; and has a proposed date to begin operations, the first survey could occur as early as two months prior to the opening of organization and could assess the organization's overall compliance with a limited set of standards. These standards would relate to physical facilities, policies and procedures, and plans and related structural considerations. If the organization is in compliance, it would receive a "provisional accreditation" decision. Recommendations for improvement would be made prior to the initiation of services and the organization would be monitored after it opens. A second survey would occur six months after the first survey (four months after the organization began operation). This would be a full survey, evaluating the organization's progress towards resolution of the original recommendations, assessing actual organization operations and resulting in an accreditation decision in accordance with applicable aggregation and decision rules.

Option 2 of the Early Survey Policy is available to organizations that have never been surveyed by the Joint Commission, have been in operation for at least one month and have provided care for at least ten patients, with at least one patient currently in treatment. The initial survey is a full survey, resulting in an "accreditation with type I recommendations" decision related, at minimum, to limited tract records of performance. The second survey would occur approximately four months later to address the track record requirements and any other Type I recommendations from the initial survey. The organization's accreditation status may change to

“accreditation”, “accreditation with recommendations for improvement”, “preliminary non-accreditation” or “not accredited”. Follow-up activities, such as focus surveys and written reports, may be required based on the findings from either of the two survey .

The Secretary may wish to develop a mandated policy, similar to Option I of the Joint Commission’s Early Survey Policy.

The Joint Commission looks forward to continuing to fully participate with the federal government in developing a system for management of Opioid Treatment Programs that enhances the ability of practitioners, organizations, state and federal stakeholders and other interested parties to provide quality treatment to all patients.